



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ROBERT DELITTA,

Plaintiff,

-against-

DR. KILOLO KIJAKAZI,
Acting Commissioner of Social Security,

Defendant.¹
-----X

**ORDER
TO SHOW CAUSE**

20 Civ. 5618 (VB) (PED)

On February 1, 2021, Judge Briccetti issued an Order stating that this case would be “dismissed without prejudice unless, on or before February 15, 2021, plaintiff files on the ECF docket proof of service or shows good cause in writing for his failure to do so.” Dkt. #13.

On February 2, 2021, plaintiff’s counsel filed an Affidavit of Service (Dkt. #14), demonstrating service by mail upon the Commissioner of Social Security “care of the Office of the Regional Chief Counsel, Region II, Social Security Administration, 26 Federal Plaza, Room 3904, New York, NY 10278.” On February 15, 2021, plaintiff’s counsel filed an Affidavit of Service (Dkt. #15), demonstrating service by mail upon the Commissioner of Social Security “care of the U.S. Department of Justice, 950 Pennsylvania Ave, NW, Washington, DC 20530.”

On June 24, 2021, chambers staff spoke with plaintiff’s counsel (Warren Roth) and inquired as to service upon the United States Attorney for the Southern District of New York pursuant to Fed. R. Civ. P. 4(i). Mr. Roth represented that he had served the U.S. Attorney and would file proof of same.

¹ Dr. Kilolo Kijakazi is now Acting Commissioner of the Social Security Administration and is substituted for former Commissioner Andrew Saul as the defendant in this action, pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

To date, plaintiff's counsel has not filed proof of service upon the U.S. Attorney (and, indeed, defendant has not yet appeared).

Accordingly, plaintiff must file a letter by **December 15, 2021** and show cause as to why the undersigned should not Report and Recommend to Judge Briccetti that this action be dismissed without prejudice for failure to effect proper, timely service pursuant to Fed. R. Civ. P. 4(i) and 4(m).

Dated: December 1, 2021
White Plains, New York

SO ORDERED.



PAUL E. DAVISON, U.S.M.J.